

(1897) 09 MAD CK 0012
In the Madras High Court

Kamalattanni and Another

APPELLANT

Vs

Renga Aiyangar and Another

RESPONDENT

Date of Decision : 17-09-1897

Acts Referred:

Citation : (1897) 7 MLJ 310

Judgement

1. The application was made u/s 335 of the CPC to direct the removal of the obstruction caused by the counter-petitioner and to put petitioner in

possession. That section contemplates that on the complaint the Court shall enquire into the matter and pass such order as it thinks fit.

2. In the case before us, the Sub Judge considered the documents produced and heard the arguments on both sides and then came to the

conclusion that the case was one that should be determined summarily. He then made an order rejecting the petition for possession and refer ing

the petitioners to a regular suit.

3. It appears to us that the only enquiry necessary to be made u/s 335 is with reference to the question whether a summary order for possession

should be made. The Sub Judge has made enquiry and come to the conclusion that this was not such a case. We agree with the Courts below that

the enquiry in this case was sufficient, and there can be no doubt that the order passed was one passed against the petitioners, for it rejected their

application.

4. It therefore, fell within Article 11 of the 2nd Schedule of the Limitation Act, and the suit was admittedly under that Article

5. We dismiss the second appeal with costs.